

APPROVED

PLANNING COMMISSION SUBCOMMITTEE MINUTES

November 14, 2007

I. ROLL CALL

Present: Mandal and Williams
Absent: Azevedo and Tabladillo
Staff: Ah Sing, Bejines, and Lindsay

1. "S" ZONE AMENDMENT (SA07- 0001)

Sheldon Ah Sing, Senior Planner, presented a request to allow the replacement of existing signs with new signs, including new lighting elements along the existing canopy at a service station located at 367 Cypress Drive. Mr. Ah Sing recommended approval subject to findings and conditions of approval.

Chair Williams asked if the applicant would have electronic billboards.

Jim Southward, RHL Design Group, said no.

Mr. Ah Sing pointed out that the applicant originally proposed silver cladding material over the existing columns of the canopy. However, staff cannot support the request, because the color of the columns does not complement the design and colors of the building. In addition, the silver cladding does not complement the red clay tile used on the canopy and the building.

Mr. Southward said that the silver cladding material is part of the company's image and is consistent with the other stations.

Chair Williams asked Mr. Southward if the cladding were to get damage, could it be easily replaced and Mr. Southward said yes.

Chair Williams said he does not see a problem with the silver cladding and asked staff to remove the proposed condition.

Motion to approve "S" Zone Amendment (SA07-0001) with the approval of the silver cladding material.

M/S: Williams/Mandal

AYES: 2

NOES: 0

II. ADJOURNMENT

This meeting was adjourned at 6:45 p.m.

APPROVED

PLANNING COMMISSION MINUTES

November 14, 2007

I. PLEDGE OF ALLEGIANCE

Chair Williams called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

II. ROLL CALL

Present: Ali-Santosa, Ciardella, Mandal, Sandhu and Williams
Absent: Azevedo and Tabladillo
Staff: Ah Sing, Bejines, Gilli, Kunsman, Lindsay and Ogaz

III. PUBLIC FORUM

Chair Williams invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendaize the matter for a future meeting.

There were no speakers from the audience.

IV. APPROVAL OF MINUTES October 24, 2007

Chair Williams called for approval of the minutes of the Planning Commission meeting of October 24, 2007.

There were no changes to the minutes

Motion to approve the minutes of October 24, 2007.

M/S: Sandhu/Mandal

AYES: 5

NOES: 0

V. ANNOUNCEMENTS

Chair Williams introduced James Lindsay, the new Planning & Neighborhood Services Director and Mike Ogaz, the new City Attorney.

Commissioner Sandhu congratulated the whole world and the Sikh community on the 539th birthday of Guru Nanak Dev Ji, founder of Sikh Religion, which birthday falls on November 25th.

APPROVED

Planning Commission Minutes

November 14, 2007

**VI.
CONFLICT
OF INTEREST**

City Attorney Mike Ogaz asked if any member of the Commission has any personal or financial conflict of interest on tonight's agenda.

Commissioner Sandhu said he has conflict of interest on Agenda Item No. 3 (Conditional Use Permit No. UP2007-23, "S" Zone Amendment No. SA2007-52, and Environmental Assessment No. EA2007-9) because he is the founding President of the Sikh Foundation of Milpitas.

City Attorney Ogaz asked if Commissioner Sandhu would be excusing himself during the discussion? Commissioner Sandhu said yes however he requests to sit in the audience.

City Attorney Ogaz said that it is part of procedures that Commissioner Sandhu would have to leave the Council Chambers for that item only and Commissioner Sandhu agreed.

Chair Williams said he has attended functions of the Sikh Foundation however he is not a member and felt he could vote on the item objectively.

Vice Chair Mandal said he has attended Sikh prayer breakfasts however he does not have a conflict of interest.

**VII.
APPROVAL OF
AGENDA**

Chair Williams called for approval of the agenda.

There were no changes to the agenda.

Motion to approve the Agenda.

M/S: Sandhu/Ciardella

AYES: 5

NOES: 0

**VIII.
CONSENT CALENDAR**

Chair Williams asked whether staff, the Commission, or anyone in the audience wished to remove or add any items to the consent calendar.

There were no changes to the consent calendar.

Motion to approve the consent calendar.

M/S: Mandal/Sandhu

AYES: 5

NOES: 0

Chair Williams opened the public hearing on Consent Item Nos. 4, 5, 6, and 7.

There were no speakers from the audience.

Motion to close the public hearing on Consent Item Nos. 4, 5, 6 and 7.

M/S: Mandal/Sandhu

AYES: 5

NOES: 0

Motion to approve Consent Item Nos. 4, 5, 6 and 7.

M/S: Ciardella/Mandal

AYES: 5

NOES: 0

***4 "S" ZONE NO. (SZ2007-19), "S" ZONE AMENDMENT NO's. (SA2007-62) AND (SA2007-63) AND CONDITIONAL USE PERMIT NO's. (UP2007-22), (UP2007-31) AND (UP2007-32):** A request for approval of a sign program for Cisco (office use) on three separate adjacent properties located at 725 Alder Drive, 800 Barber Lane and 707 Tasman Drive. *(Recommendation: Approval Subject to Findings and Conditions of Approval)*

***5 "S" ZONE AMENDMENT NO. (SA2007-66):** A request for approval of a sign program for an existing office building located at 1221 California Circle. *(Recommendation: Approval Subject to Findings and Conditions of Approval)*

***6 CONDITIONAL USE PERMIT AMENDMENT NO. UA2007-16 AND "S" ZONE AMENDMENT NO. SA2007-65:** A request to modify the Conditions of Approval for Conditional Use Permit No. UP2006-5 and Site and Architecture Review No. SZ2006-4 for the construction of two buildings containing a total of 464 multi-family residential units located at the Corner of Great Mall Parkway, Main, and Abel Streets. *(Recommendation: Approval Subject to Findings and Conditions of Approval)*

***7 CONDITIONAL USE PERMIT AMENDMENT NO. UA2007-14:** A request to amend a previously approved Conditional Use Permit to allow for the relocation of the Paragon Sales Office from the existing sales trailer to the garage area of the 3-unit model home building. The application also includes the installation of a temporary freestanding sign and flag signs. *(Recommendation: Approval Subject to Findings and Conditions of Approval)*

IX. PUBLIC HEARING

1. PERMIT REVIEW (PR2007-3) (Continued from October 24, 2007)

Sheldon Ah Sing, Senior Planner, presented a nine-month review of Conditional Use Permit (UP2006-18) that allows for a 2400 sq. ft. KTV Musicland karaoke establishment without food or alcohol service located at 788 Barber Lane. Mr. Ah Sing recommends approve the modifications subject to the findings and conditions of approval and also pointed out that the project will come back again in February.

Commissioner Ciardella asked if it is normal to conduct surprise inspections and Mr. Ah Sing said yes.

APPROVED
Planning Commission Minutes
November 14, 2007

Commissioner Ciardella asked if it is common for an applicant not to follow the conditions of approval? Mr. Ah Sing said that this applicant has three outstanding issues and he cannot speak for previous reviews. The three issues are:

- *SC #7: The applicant shall maintain signs stating “No loitering or consumption of alcoholic beverages” on the exterior of the building and within the establishment. (P) – Only “No Loitering” is posted on the exterior of the Building and “No Alcohol” sign is posted within the premises which does not substantial conform to the condition.*
- *SC #11: The front exterior windows shall be maintained free and clear. No tinting or blinding of the exterior windows shall be allowed. (P) – Drapes are installed in the VIP room and in the front lobby area.*
- *SC #23: All conditions applicable to patrons, particularly the stated prohibitions included in these “Conditions of Approval”, of the facility incorporated herein shall be conspicuously posted in the front lobby area in a sign at the entrance with lettering of at least two (2) inches in size. (P) – No signage was posted on the premise.*

Mr. Ah Sing explained that the applicant is not in compliance with Condition No. 2 because he has drapes in his front windows. The applicant claims that the reason for the drapes is because the computer equipment overheats during the daytime.

Commissioner Ciardella asked if there was one police incident and Mr. Ah Sing said yes.

Vice Chair Mandal is surprised that the business does not serve food and drinks and asked why? Mr. Ah Sing deferred the question to the applicant.

Commissioner Sandhu asked why is staff proposing another review in three months? Mr. Ah Sing said at this point, since they are not complying, staff is recommending that the permit be reviewed in three months so the applicant can rectify the issues.

Chair Williams said he visited the business and he saw snack foods at the reception desk and asked if they are selling food? Mr. Ah Sing deferred the question to the applicant.

Chair Williams said he also noticed that the receptionist was unclear about her duties and asked if she is informed of what to do in an emergency situation? Mr. Ah Sing deferred the question to the applicant.

Chair Williams introduced the applicant.

Joe Zheng, 4704 Pacific Ave., Stockton, is available to answer questions.

Chair Williams asked if employees are given a training program on what to do in case of an emergency. Mr. Zheng said that the receptionist has a list of emergency contacts and knows to dial 911 in case of an emergency.

Chair Williams asked Mr. Zheng if he is providing food snacks and Mr. Zheng said that patrons could bring food their own food inside the business to eat.

Vice Chair Mandal asked if Mr. Zheng plans on serving food or alcohol in the future? Mr. Zheng said they would normally consider serving food and alcohol however the center already has too many food facilities and they do not want to be in conflict with their neighbors.

APPROVED
Planning Commission Minutes

November 14, 2007

Vice Chair Mandal asked if people having a private party could bring food? Mr. Zheng said yes and noted that customers usually bring a birthday cake.

Vice Chair Mandal asked who manages the food situation? Mr. Zheng said he has three employees to clean up.

Vice Chair Mandal asked Mr. Zheng how would he handle the alcohol situation and Mr. Zheng said they make everyone sign a paper stating that alcohol is not allowed.

Commissioner Ciardella asked what is the issue with the drapes? Mr. Zheng said that drapes on the windows are not allowed because some people think it is an illegal business however, the sun hits the windows everyday which is causing damage to the computer equipment and that is why the drapes were added. He pointed out that they do have cameras in each room.

Commissioner Ciardella asked Mr. Zheng if he complied with the other two conditions and Mr. Zheng said yes and showed proof with pictures he took from his establishment.

Commissioner Sandhu asked Mr. Zheng if he understands and agrees to all of the conditions of approval and Mr. Zheng said yes.

Chair Williams asked if the applicant is requesting to maintain the drapes and Mr. Lindsay said that the applicant is requesting to continue working with staff to address the issue and work through other solutions.

Chair Williams opened the public hearing.

There were no speakers from the audience.

Motion to close the public hearing.

M/S: Mandal/Sandhu

AYES: 5

NOES: 0

Chair Williams suggested that staff add the following condition of approval:

- *The operator or designee shall develop a training manual that ensures that staff is properly trained on how to effectively handle emergency situations. A copy of this procedure manual shall be submitted to the Planning Division. Adequacy of the manual shall be determined by Planning staff. Any revisions to the manual shall be submitted to the Planning Division. (P, PC)*

Chair Williams also encouraged staff to continue working with the applicant on the drapes issue.

Commissioner Ciardella asked if staff has come up with other solutions besides drapes? Mr. Ah Sing suggested permanent blinds however it would have to be worked out with the police department.

APPROVED
Planning Commission Minutes

November 14, 2007

Motion to approve Permit Review (PR2007-3) with the modifications subject to the findings and conditions of approval, with the intention that the applicant will continue to work with staff and the added special condition:

- *The operator or designee shall develop a training manual that ensures that staff is properly trained on how to effectively handle emergency situations. A copy of this procedure manual shall be submitted to the Planning Division. Adequacy of the manual shall be determined by Planning staff. Any revisions to the manual shall be submitted to the Planning Division. (P, PC)*

M/S: Mandal/Sandhu

AYES: 5

NOES: 0

**2. “S”
AMENDMENT
(SA2007-3)**

**ZONE
NO.**

Judie Gilli, Project Planner, presented a request for approval of a new one-story (4,140 s. f.) hillside home located at 826 Calaveras Ridge Drive. Ms. Gilli recommended approval subject to findings and conditions of approval.

Chair Williams asked if the applicant would be expanding their exterior amenities? Ms. Gilli deferred the question to the applicant.

Vice Chair Mandal asked how will the outside lights be mitigated? Ms. Gilli said staff would check to make sure that the lights are not too excessive when the applicant applies for permits.

Commissioner Ciardella pointed out the storage room in the basement floor plan and asked what is it going to be used for? Ms. Gilli deferred the question to the applicant.

Commissioner Ciardella said he wants to make sure that the storage room is not used as a retail office. Ms. Gilli said that retail space would not be allowed by right and if the applicant were to submit an application, it would have to come back to the Commission.

Chair Williams introduced the applicant.

Pete Vararoutsos, 3441 Cedardale Dr., San Jose, CA, said the storage room would be used for extra storage space and possible space for family members. He also plans on installing low glare lighting and using impervious materials wherever he can.

Chair Williams asked if Mr. Vararoutsos is aware that he is near the limits of impervious surface area? Mr. Vararoutsos said he is actually 2,000 sq. ft. under the limit and all the decking is impervious surface.

Chair Williams opened the public hearing.

There were no speakers from the audience.

Motion to close the public hearing.

M/S: Sandhu/Mandal

AYES: 5

NOES: 0

APPROVED
Planning Commission Minutes
November 14, 2007

Motion to approve "S" Zone Amendment No. (SA2007-3) approval subject to findings and conditions of approval.

M/S: Ciardella/Mandal

AYES: 5

NOES: 0

Commissioner Sandhu excused himself for Item No. 3 and left the Council Chambers.

**3. CONDITIONAL USE
PERMIT NO. UP2007-23,
"S" ZONE
AMENDMENT NO.
SA2007-52, AND
ENVIRONMENTAL
ASSESSMENT NO.
EA2007-9**

Sheldon Ah Sing, Senior Planner, presented a request to locate a 4,030 square foot religious facility within an existing R&D building, to install minor site modifications, and to allow a parking reduction of four parking spaces located at 1180 Cadillac Court. Mr. Ah Sing recommended approval subject to findings and conditions of approval.

Vice Chair Mandal asked if a formal parking agreement would be submitted to the City? Mr. Ah Sing said that a formal parking agreement would have to be reviewed by the City Attorney and would have to be recorded at the County.

Commissioner Ciardella asked if there are any hazardous materials generated near the proposed project since it is located in an industrial park? Mr. Ah Sing said nothing has been identified but there is a potential because they are within an industrial zoning district. By right, R&D businesses could locate there so that is why through the mitigation process the applicant could mitigate those concerns.

Commissioner Ciardella asked what are the mitigation measures? Mr. Ah Sing said the applicant is to provide an emergency plan, communication system and install a wind sock.

Commissioner Ciardella asked if there is a type of monitoring system that would be installed to detect hazardous materials? Mr. Ah Sing said he is not certain however staff could add that as a condition of approval.

Chair Williams introduced the applicant.

Rouble Claire, 712 Mente Linda Loop, Milpitas, said he is available to answer any questions, and introduced congregation members and Tracy Wong, Civil Engineer.

City Attorney Ogaz asked the applicant if it is his intention to continue shuttle service? Mr. Claire stated that the church will have two shuttles and they will not be parked on site, rather at the volunteer's homes and will only be picked up when required.

Chair Williams opened the public hearing.

Brad Hall, 1161 North Abbott Avenue, Milpitas, lives 300 feet from the project, said he has no problems with the temple however when the new building was built, he never knew that he was going to be exposed to hazardous materials. He asked what kind of safety measures is in place for people that work and live in the area. He also was not aware that there were going to be changes to the building and asked what reassurances does he have that the residents will be safe.

Chair Williams asked Mr. Hall to get in touch with staff so they could answer his questions and if his questions will affect the community as a whole, then it could be agendaized at a future meeting.

Wayne Martinez, 1164 Cadillac Court, Milpitas, said he is opposing the project for the reasons stated on the petition that was signed by ten business owners. The petition states the following:

- **Parking:** The parking facility is not adequate to accommodate the needs usually associated with religious gatherings nor is there a control system in place to effectively police the business park to ensure fair usage of the parking resources.
- **Safety:** the development was not designed to accommodate large social gatherings that may include children and other large numbers of pedestrians.
- **By definition,** the Venture Commerce Center of Milpitas was marketed and sold as a business center. Incorporating other, non-business uses may adversely impact the salability of the property as a professional place of business thereby adversely impacting the property value to current owners.

Ms. Harmeet K. Dhaliwal, 517 Bryce Court, Milpitas, said there are many benefits to having the temple in Milpitas such as convenience of the location because it is only five to ten minutes away from home for most seniors and people that work. She also pointed out that the temple does not attract large crowds like San Jose and Fremont, rather close knit family groups. She said the temple is expecting about 50 to 60 people so parking should not be a problem because families usually car-pool in one car. She is in support of the project.

Chair Williams asked if there would be any special events and Mr. Claire said they do not expect any large gatherings and would not cause any parking issues.

Harsimrit Kaur Khalsa aka Nancy Tobison, wife of the head priest, said they consider the Sikh Temple God's business, because they are dedicated to share what God teaches which is the Sikh scriptures. They believe that all people are created equal and want everyone to be healthy, happy and successful. As far as too many people coming in the future, there is always the option of buying out other areas close by or moving to another location.

Motion to close the public hearing.

M/S: Mandal/Ali-Santosa

AYES: 5

NOES: 0

Chair Williams proposed a double six-month review on the project to review any issues or complaints and to protect everyone's vested interest in the project.

City Attorney Ogaz said the parking study seems to be dependent to the continuation of the shuttle service and would like to add this as a condition of approval so he could include it in the parking agreement.

Commissioner Ciardella did not agree with the following special condition and asked staff to revise:

- *To maintain adequate parking, the congregation membership shall not exceed (68) members as specified on the approved plans dated November 14, 2007.*

APPROVED
Planning Commission Minutes

November 14, 2007

Mr. Lindsay clarified that any assembly is required to post occupancy limits to meet fire code. He also said that if the congregation grows, the applicant could come back with a use permit amendment and the condition could be modified.

Mr. Ah Sing recommended that the condition be revised to the following:

- *To maintain adequate parking, the occupancy of the building suite shall not exceed (68) persons at any one time.*

Vice Chair Mandal asked if a company locates with harmful chemicals and it has to be mitigated, does the City post notices to the surrounding areas? Mr. Ah Sing said that the Fire Department would determine the required mitigation measures.

Mr. Lindsay said the Fire Prevention Bureau reviews applications to use hazardous materials and there is no notification process that occurs for surrounding businesses when a place of assembly chooses to locate within an industrial area. Staff and the Fire Dept. do everything to ensure they are moving into this area under full knowledge that there could be future users of hazardous materials and there is a right for those businesses to use those as long as they are compliant with fire code and state law.

Chair Williams asked if a business moved in with hazardous materials, would they have a greater impact on the residents and Mr. Lindsay said the probability of a release is small and said the residents are more concerned with parking.

Motion to approve Conditional Use Permit No. UP2007-23, "S" Zone Amendment No. SA2007-52, and Environmental Assessment No. EA2007-9 subject to findings and conditions of approval and with the following modified conditions:

- *The project is subject to two (2) subsequent six (6) month Permit Reviews. The applicant shall be responsible to complete and file an application with the Planning Department in the same measures as a Conditional Use Permit Application. The Permit Review process will also be conducted in a manner similar to a Conditional Use Permit. (P, PC)*
- *To maintain adequate parking, the occupancy of the building suite shall not exceed (68) persons at any one time. (P, PC)*
- *The applicant or designee shall continue to utilize a shuttle service for its members to and from services (P, PC)*

M/S: Mandal/Ali-Santosa

AYES: 5

NOES: 0

Commissioner Sandhu returned to the Council Chambers.

X. NEW BUSINESS

4. "S" ZONE AMENDMENT NO. (SA2007-60)

Tiffany Kunsman, Project Planner, presented a request to modify the conditions of approval to remove a 144" protected California Pepper Tree located at 2016 Calaveras Blvd. Ms. Kunsman recommended Approval Subject to Findings and Conditions of Approval.

APPROVED
Planning Commission Minutes

November 14, 2007

Vice Chair Mandal asked if the applicant could plant other trees on the property? Ms. Kunsman said the site is a constrained site and it would look cluttered if the applicant were to add more trees.

Chair Williams invited the applicant to speak.

Sylvia Leung, 968 Hanson Court, Milpitas, said her company believes in protecting the environment. They have relocated five olive trees at their expense and felt they have cooperated fully with the City. They paid for an arborist report and were unable to save this particular tree.

Motion to approve "S" Zone Amendment No. (SA2007-60) subject to Findings and Conditions of Approval.

M/S: Mandal/Sandhu

AYES: 5

NOES: 0

XI. ADJOURNMENT

The meeting was adjourned at 8:35 p.m. to the next regular meeting of December 12, 2007.

Respectfully Submitted,

James Lindsay
Planning & Neighborhood
Services Director

The foregoing minutes were approved by the Milpitas Planning Commission as submitted on December 12, 2007.

Veronica Bejines
Recording Secretary

APPROVED
Planning Commission Minutes
November 14, 2007